

Senate Bill 140

By: Senator Hamrick of the 30th

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 44-7-55 of the Official Code of Georgia Annotated, relating to the writ of possession, so as to provide that a tenant with a valid lease can stay in a foreclosed property for 60 days; to amend Code Section 44-14-162.2 of the Official Code of Georgia Annotated, relating to sales made on foreclosures under power of sale, so as to provide for notice to the occupant of the property of an impending sale of the property; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 44-7-55 of the Official Code of Georgia Annotated, relating to the writ of possession, is amended by revising subsections (a) and (b) as follows:

"(a)(1) If, on the trial of the case, the judgment is against the tenant, judgment shall be entered against the tenant for all rents due and for any other claim relating to the dispute. The court shall issue a writ of possession, both of execution for the judgment amount and a writ to be effective at the expiration of seven days after the date such judgment was entered, except as otherwise provided in Code Section 44-7-56.

(2) However, if, on trial of the case, the tenant presents proof that he or she is a tenant pursuant to a valid lease in which the landlord on the lease was foreclosed upon for the property at issue, then the writ of possession shall be effective at the expiration of 60 days so long as the tenant tenders one month's rent to the court registry within seven days of the trial of the case and tenders a second month's rent within 30 days of the trial. The provisions of this paragraph shall not be construed so as to establish any landlord tenant relationship between the tenant and the foreclosing party.

(b) If the judgment is for the tenant, ~~he~~ the tenant shall be entitled to remain in the premises and the landlord shall be liable for all foreseeable damages shown to have been

caused by ~~his~~ the landlord's wrongful conduct. Any funds remaining in the registry of the court shall be distributed to the parties in accordance with the judgment of the court. Funds paid into the registry of the court pursuant to paragraph (2) of subsection (a) of this Code section shall be distributed to the purchaser of a deed under power in a foreclosure sale within seven days of being received into the registry of the court."

SECTION 2.

Code Section 44-14-162.2, relating to sales made on foreclosures under power of sale, is amended by adding a new subsection to read as follows:

"(c) No later than 30 days before the date of a proposed foreclosure, the secured creditor shall send by regular mail addressed to 'Current Resident' at the address of the property a notice in substantially the following form:

'NOTICE

A foreclose notice on the property located at (insert address) will be published in the legal organ for (insert county) advertising the property located at (insert address) for sale on (insert date).

A foreclosure sale of the property may occur on the date advertised. You may want to consult with an attorney because you could be evicted, even if you are a tenant who has fully paid rent and complied with your lease. If, during a dispossessory proceeding for eviction, you can prove that you have a valid lease to rent this property, you will have a right to remain on the property for up to 60 days so long as you pay the monthly rent to the clerk of court."

SECTION 3.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.